REMARKS

The Examiner is thanked for the thorough examination of the present application. The Office Action, however, tentatively rejected all claims. Specifically, claims 1, 4-5, 8, 11, 14, and 17 stand rejected under 35 U.S.C. §102(e) as allegedly anticipated by *Conrad et al.* (U.S. Patent No. 7,185,109). Claims 2-3, 6-7, 9-10, 12-13, 16, and 18-19 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Conrad et al.* in view of *Bondi et al.* (U.S. Patent No. 5,910,885).

In response to the Office Action, claim 1 is amended to incorporate the subject matter of claim 2. Claim 2 is correspondingly cancelled, and claims 3 and 6 are amended to depend from claim 1. Claim 8 is amended to incorporate the subject matter of claim 9. Claim 9 is correspondingly cancelled, and claims 10 and 12 are amended to depend from claim 8. Claim 14 is amended to incorporate the subject matter of claim 15. Claim 15 is correspondingly cancelled, and claims 16 and 18 are amended to depend from claim 14.

After entry of the foregoing amendments, claims 1, 3-8, 10-14, and 16-19 remain pending in this application, and Applicant respectfully requests that these claims be passed to issuance.

Independent Claims 1, 8 & 14

Independent claims 1, 8, and 14 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by *Conrad et al.* (U.S. Patent No. 7,185,109). Applicant respectfully requests reconsideration of these rejections on the grounds that *Conrad* doesn't disclose all features of the claimed embodiments.

For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.,* 927 F.2d 1565, 18 USPQ 2d 1001 (Fed. Cir. 1991.)

Independent claim 1, as currently amended, recites:

> 1. A system of automated network device discovery, comprising:
> a storage device; and
> a discovery module, configured to issue a series of relayed single-destination simple network management protocol (SNMP) requests to a plurality of network devices to acquire a plurality of Cisco discovery protocol (CDP) neighbor device data, generate a plurality of network device inventory records corresponding to the CDP neighbor device data, and store the network device inventory records to the storage device;
> ***wherein the discovery module further stores the CDP neighbor device data which is newly discovered to a queue and pops the CDP neighbor device data out of the queue for successive CDP neighbor device discovery.***

(*Emphasis Added*)

Independent claim 8, as currently amended, recites:

> 8. A method of automated network device discovery, the method comprising using a computer to perform the steps of:
> issuing a series of relayed single-destination simple network management protocol (SNMP) requests to a plurality of network devices to acquire a plurality of Cisco discovery protocol (CDP) neighbor device data; and
> generating a plurality of network device inventory records corresponding to the CDP neighbor data;
> ***wherein the CDP neighbor device data is stored in a queue and popped out of the queue for successive CDP neighbor device discovery.***

(*Emphasis Added*)

Finally, independent claim 14, as currently amended, recites:

14. A machine-readable storage medium for storing a computer program which when executed performs a method of automated network device discovery, the method comprising the steps of:

        issuing a series of relayed single-destination simple network management protocol (SNMP) requests to a plurality of network devices to acquire a plurality of Cisco discovery protocol (CDP) neighbor device data; and

        generating a plurality of network device inventory records corresponding to the CDP neighbor device data;

        wherein the CDP neighbor device data is stored in a queue and popped out of the queue for successive CDP neighbor device discovery.

(*Emphasis Added*)

Independent claims 1, 8, and 14 define over Conrad for at least the reason that *Conrad* does not disclose, teach, or suggest to store the CDP neighbor device data, which is newly discovered to a queue and pop the CDP neighbor device data out of the queue for successive CDP neighbor device discovery.

In page 4, the Office Action admitted that Conrad et al fails to teach the discovery module further stores the CDP neighbor device data, which is newly discovered to a queue and pops the CDP neighbor device data out of the queue for successive CDP neighbor device discovery. The Office Action, instead, cited Bondi (US 5,910,885) as allegedly teaching this feature. Applicant respectfully disagrees.

In order for a claim to be properly rejected under 35 U.S.C. §103, the teachings of the prior art reference must suggest all features of the claimed invention to one of ordinary skill in the art. See, e.g., In re Dow Chemical, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); In re Keller, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

According to *Bondi* reference in col.5, lines 54-67, *Bondi* only discloses a queue stores the nodes, which are awaiting transmission of a poll and the queue identifies the

nodes which are scheduled to be polled. However, *Bondi* has never disclosed that storing CDP neighbor device data, which is newly discovered to a queue and popping the CDP neighbor device data out of the queue for successive CDP neighbor device discovery. *Bondi* wholly fails to teach that the nodes are CDP neighbor device data and has never suggested popping the CDP neighbor device data out of the queue for successive CDP neighbor device discovery. Therefore, the assertion in pages 4 of the Office Action, that *Bondi* teaches the discovery module further stores CDP neighbor device data which is newly discovered to a queue and pops the CDP neighbor device data out of the queue for successive CDP neighbor device discovery, is incorrect. Storing CDP neighbor device data which is newly discovered to a queue and popping the CDP neighbor device data out of the queue for successive CDP neighbor device discovery was not disclosed by all the references, individually or inclusively.

In short, independent claims 1, 8 and 14 should be allowable, as neither *Conrad* nor *Bondi* teaches or suggests storing the CDP neighbor device data, which is newly discovered to a queue and popping the CDP neighbor device data out of the queue for successive CDP neighbor device discovery.

As a separate and independent basis for the patentability of all claims, Applicant submits that the combination of Bondi and Conrad is improper. In this regard, the Office Action combined Bondi with Conrad to reject the claims on the solely expressed basis that "it would have been obvious … in order to reduce the elapsed of network discovery." (see e.g., Office Action, p. 4)

This rationale is both incomplete and improper in view of the established standards for rejections under 35 U.S.C. § 103.

In this regard, the MPEP section 2141 states:

> Office policy has consistently been to follow _Graham v. John Deere Co._ in the consideration and determination of obviousness under 35 U.S.C. 103. As quoted above, the four factual inquires enunciated therein as a background for determining obviousness are briefly as follows:
> (A) Determining of the scope and contents of the prior art;
> (B) Ascertaining the differences between the prior art and the claims in issue;
> (C) Resolving the level of ordinary skill in the pertinent art; and
> (D) Evaluating evidence of secondary considerations.
>
> . . .
>
> BASIC CONSIDERATIONS WHICH APPLY TO OBVIOUSNESS REJECTIONS
>
> When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:
> (A) The claimed invention must be considered as a whole;
> (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
> (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and
> (D) Reasonable expectation of success is the standard with which obviousness is determined.
>
> _Hodosh v. Block Drug Co., Inc._, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

The foregoing approach to obviousness determinations was recently confirmed by the United Stated Supreme Court decision in KSR INTERNATIONAL CO. V. TELEFLEX INC. ET AL. 550 U.S. ___ (2007)(No. 04-1350, slip opinion, p. 2), where the Court stated:

> In Graham v. John Deere Co. of Kansas City, 383 U. S. 1 (1966), the Court set out a framework for applying the statutory language of §103,

11

language itself based on the logic of the earlier decision in Hotchkiss v. Greenwood, 11 How. 248 (1851), and its progeny. See 383 U. S., at 15–17. The analysis is objective:

> "Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., mightbe utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented." Id., at 17–18.

Simply stated, the Office Action has failed to at least (1) ascertain the differences between and prior art and the claims in issue; and (2) resolve the level of ordinary skill in the art. Furthermore, the alleged rationale for combining the two references embodies clear and improper subjective hindsight rationale. For at least these additional reasons, Applicant submits that the rejections of all claims are improper and should be withdrawn.

As independent claim 1, 8, and 14 are allowable over the prior art of record, then their dependent claims 3-7, 10-13, and 16-19 are allowable as a matter of law, because these dependent claims contain all features/elements/steps of their respective independent claims 1, 8 and 14. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1, 3-8, 10-14 and 16-19 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Applicants respectfully request submit that the foregoing is fully responsive to the election request and that all presently-pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone the undersigned.

No fee is believed to be due in connection with this submission. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

/Daniel R. McClure/

Daniel R. McClure
Registration No. 38,962

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500